

The Governor approved this Statement of Scope on July 30, 2015.

STATEMENT OF SCOPE
DEPARTMENT OF HEALTH SERVICES

Rule No.: DHS 140

Relating to: Required services of local health departments

Rule Type: Permanent

Type of Statement of Scope: Original

1. Finding/nature of emergency (Emergency Rule only):

Not Applicable.

2. Detailed description of the objective of the proposed rule:

The objective of the proposed rulemaking is to revise the required services of Levels I, II, and III local health departments.

3. Description of the existing policies relevant to the rule, new policies proposed to be included in the rule, and an analysis of policy alternatives:

Chapter DHS 140 specifies the required services of Levels I, II, and III local health departments, and additional required services for Level II and Level III local health departments as provided under s. 251.20, Stats. Chapter DHS 140 has not been updated since the rule was created in 1998.

Public health has evolved since that time, making the currently stated services outdated. Additionally, portions of the rule are unclear and may be redundant. The department proposes to revise ch. DHS 140 to clarify the rule, remove any redundancies, and reflect current trends and practices in public health and required services of local health departments.

The department is required under s. 251.20, Stats., to establish required services of local health departments. There are no reasonable alternatives to the rulemaking.

4. Detailed explanation of statutory authority for the rule (including the statutory citation and language):

Section 251.20, Stats., reads: The department shall promulgate rules that specify all of the following:

- (1) Required services for each of Levels I, II and III local health departments under s. 251.05 (2).
- (3) Additional required services for Level II and Level III local health departments under s. 251.05 (2) (b) and (c), including services that the department of health services determines appropriately address objectives or services specified in the most recent public health agenda under s. 250.07 (1) (a).

227.11 (2) (a), Stats., reads: Rule-making authority is expressly conferred on an agency as follows:

(a) Each agency may promulgate rules interpreting the provisions of any statute enforced or administered by the agency, if the agency considers it necessary to effectuate the purpose of the statute, but a rule is not valid if the rule exceeds the bounds of correct interpretation. All of the following apply to the promulgation of a rule interpreting the provisions of a statute enforced or administered by an agency:

- 1. A statutory or nonstatutory provision containing a statement or declaration of legislative intent, purpose, findings, or policy does not confer rule-making authority on the agency or augment the agency's rule-making authority beyond the rule-making authority that is explicitly conferred on the agency by the legislature.
- 2. A statutory provision describing the agency's general powers or duties does not confer rule-making authority on the agency or augment the agency's rule-making authority beyond the rule-making authority that is explicitly conferred on the agency by the legislature.
- 3. A statutory provision containing a specific standard, requirement, or threshold does not confer on the agency the authority to promulgate, enforce, or administer a rule that contains a standard, requirement, or threshold that is more restrictive than the standard, requirement, or threshold contained in the statutory provision.

5. Estimate of amount of time that state employees will spend developing the rule and of other resources necessary to develop the rule:

The department estimates that it will take approximately 1,040 hours to develop the proposed rule changes. This includes the time required for research and analysis, coordinating advisory committee meeting, rule drafting, preparing any related documents, holding a public hearing and communicating with affect persons and groups.

6. List with description of all entities that may be affected by the proposed rule:

The proposed rule change will impact local health departments.

7. Summary and preliminary comparison with any existing or proposed federal regulation that is intended to address the activities to be regulated by the proposed rule:

There appears to be no existing or proposed federal regulations that address the activities to be regulated by the rules.

8. Anticipated economic impact of implementing the rule:

The proposed rule change is anticipated to have little or no economic impact if promulgated.

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